

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF OHIO
EASTERN DIVISION**

**STATE OF OHIO, *EX REL.*, MICHAEL
DEWINE OHIO ATTORNEY GENERAL,**

Case No. 5:17-cv-02566

Plaintiff,

**Judge John R. Adams
Magistrate Judge Kathleen B. Burke**

v.

ROVER PIPELINE LLC, *et al.*

**Removed From The Court Of Common
Pleas, Stark County, Ohio, Case No.
2017CV02216**

Defendants.

**JOINT MOTION TO SET BRIEFING SCHEDULE FOR REMAND DETERMINATION,
TO STAY TIME FOR DEFENDANTS TO ANSWER OR OTHERWISE RESPOND TO
PLAINTIFF'S FIRST AMENDED COMPLAINT, TO STAY THE CASE
MANAGEMENT SCHEDULING ORDER, AND TO CANCEL CASE MANAGEMENT
CONFERENCE**

Plaintiff State of Ohio and Defendants Rover Pipeline, LLC ("Rover") and Pretec Directional Drilling, LLC ("Pretec") respectfully and jointly request that this Court enter a briefing schedule to determine whether this matter should be remanded to the Stark County Court of Common Pleas including extensions for the filing periods and the page limits. In light of the Parties' intent to brief whether this matter should be remanded, we also ask the Court to stay the period by which Defendants must answer or otherwise respond to the First Amended Complaint, stay the Case Management Scheduling Order in its entirety, and cancel the Case Management Conference scheduled January 16, 2018.

The Parties attach to this Joint Motion the Court's form to consent to the trial jurisdiction of the Magistrate Judge executed by all Parties (**Exhibit 1**). The Parties also attach a proposed Order for the Court's convenience (**Exhibit 2**) and provide a brief background in support of the Parties' joint motion below:

1. On November 3, 2017, Plaintiff commenced this civil action by filing a complaint for injunctive relief and civil penalties against Defendant Rover in the Stark County Court of Common Pleas.

2. Service on Defendant Rover through the Stark County Clerk of Courts was perfected on November 9, 2017.

3. On November 30, 2017, Plaintiff, under Ohio R. Civ. P. 15(A) and as a matter of course, filed its First Amended Complaint in the Stark County Court of Common Pleas and added Pretec as a Defendant.

4. On December 12, 2017, service of the First Amended Complaint through the Stark County Clerk of Courts was perfected on Defendants Rover and Pretec.

5. By notice dated December 8, 2017, Defendant Rover removed this civil action to this Court pursuant to 28 U.S.C. §§ 1441, 1446. Defendant Pretec filed a Joinder in Notice of Removal on December 21, 2017.

6. Plaintiff has advised Defendants of its intent to file a motion to remand.

7. To date, Defendants have not answered or otherwise responded to the First Amended Complaint under Fed. R. Civ. P. 12. Nor have Defendants filed an answer or otherwise responded to the First Amended Complaint in state court under Ohio R. Civ. P. 12.

8. To coordinate the anticipated briefing, and this Court's determination, as to whether this matter should be remanded, the Parties jointly propose the following schedule including all necessary extensions:

- a. Plaintiff intends to file a motion to remand on or before January 10, 2018. Plaintiff requests approval, pursuant to this Court's authority under Local Rule 7.1(f), to extend the page limit for the memorandum to 20 pages exclusive of the motion itself, the table of contents, the table of authorities, the brief statement of issues to be decided, the summary of the argument, the signature pages, the certificate of service, and any appendices.
- b. Defendants request approval, pursuant to this Court's authority under Fed. R. Civ. P. 6(b)(1)(A) and Local Rule 7.1(d), to extend the time to file a response to Plaintiff's motion to remand until on or before January 31, 2018. Also, Defendants request approval to extend the page limit for responses to Plaintiff's motion to remand to 20 pages exclusive of the table of contents, the table of authorities, the brief statement of issues to be decided, the summary of the argument, the signature pages, the certificate of service, and any appendices pursuant to this Court's authority under Local Rule 7.1(f).

- c. If Defendants file a combined response in opposition to remand, Plaintiff requests approval, pursuant to this Court's authority under Fed. R. Civ. P. 6(b)(1)(A) and Local Rule 7.1(e), to extend the time for Plaintiff to file a reply to Defendants' combined response in opposition to remand until on or before February 14, 2018. Also, Plaintiff requests approval to extend the page limit for the reply to 10 pages exclusive of the signature pages, the certificate of service, and any appendices pursuant to this Court's authority under Local Rule 7.1(f).

If Defendants file separate responses in opposition to remand, Plaintiff requests approval to extend the time to file a reply to the separate responses in opposition to remand until on or before February 21, 2018 and to extend the page limit for the combined reply to 15 pages exclusive of any signature pages, the certificate of service, and appendices pursuant to this Court's authority under Fed. R. Civ. P. 6(b)(1)(A) and Local Rules 7.1(e) and (f).

- d. Because the Parties intend to brief whether this matter should be remanded, Defendants request approval, pursuant to Fed. R. Civ. P. 6(b)(1)(A), to stay the time to file and serve answers or otherwise respond to the First Amended Complaint.
- e. If this Court denies Plaintiff's motion to remand, the Parties agree to file a proposed joint schedule within 30 days of the Court's entry denying remand that contemplates:

- (1) a period by which Plaintiff may seek leave to amend the First Amended Complaint by Defendants' written consent or motion to the Court; and

- (2) a period by which Defendants file and serve pleadings in response to Plaintiff's First Amended Complaint or further amendment, for which Defendants consent or the Court grants leave for Plaintiff to file.

- f. The Parties request approval, pursuant to this Court's authority under Fed. R. Civ. P. 6(b)(1)(A), to stay the Case Management Conference Scheduling Order in its entirety until further Order of the Court and cancel the Case Management Conference, dated January 16, 2018, to allow the Parties to brief remand, and if necessary file any amendment to the First Amended Complaint, and file an answer or other respond to the First Amended Complaint or further amendment.
- g. The Parties consent to the trial jurisdiction of the Magistrate Judge and attach the executed form to this Joint Motion.

Plaintiff and Defendants respectfully ask that the Court grant the Parties' requests and enter this joint schedule.

Respectfully submitted,

MICHAEL DEWINE
OHIO ATTORNEY GENERAL

/s/ Aaron S. Farmer

Aaron S. Farmer (0080251)
Janean R. Weber (0083960)
Assistant Attorneys General
Environmental Enforcement Section
30 East Broad Street, 25th Floor
614-466-2766
Aaron.Farmer@OhioAttorneyGeneral.gov
Janean.Weber@OhioAttorneyGeneral.gov

Counsel for Plaintiff, State of Ohio

/s/ Stephen H. Daniels (per authorization)

Stephen H. Daniels (0019198)
Michael S. McMahon (0014285)
McMahon DeGulis LLP
The Caxton Building
812 Huron Road, E., Suite 650
Cleveland, Ohio 44115
216-367-1402
sdaniels@mdllp.net
mmcmahon@mdllp.net

Counsel for Defendant, Rover Pipeline, LLC

William Scherman ***
David Debold ***
Gibson, Dunn & Crutcher LLP
1050 Connecticut Avenue, N.W.
Washington, DC 20036-5306
202-887-3510
wscherman@gibsondunn.com
ddebold@gibsondunn.com

Counsel for Defendant, Rover Pipeline, LLC

/s/ Joseph P. Koncelik (per authorization)

Joseph P. Koncelik (0061692)
Anthony R. Petruzzi (0069102)
Melissa Z. Kelly (0077441)
Tucker Ellis LLP
950 Main Avenue, Suite 1100
Cleveland, Ohio 44113
216-696-2373
joseph.koncelik@tuckerellis.com
anthony.petruzzi@tuckerellis.com
melissa.kelly@tuckerellis.com

*Counsel for Defendant, Pretec Directional
Drilling, LLC*

****Application for Pro Hac Vice Pending*